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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/325,893      | 06/04/1999  | MICHAEL I. NEIDICH   | ZRAN.014US0         | 3423             |

36257 7590 12/01/2005

PARSONS HSUE & DE RUNTZ LLP  
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SAN FRANCISCO, CA 94105

EXAMINER

PENDLETON, BRIAN T

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2644

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                       |                                       |  |
|------------------------------|---------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/325,893  | <b>Applicant(s)</b><br>NEIDICH ET AL. |  |
|                              | <b>Examiner</b><br>Brian T. Pendleton | <b>Art Unit</b><br>2644               |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3,47-52,60-75 and 81 is/are pending in the application.
- 4a) Of the above claim(s)      is/are withdrawn from consideration.
- 5) ☐ Claim(s)      is/are allowed.
- 6) ☒ Claim(s) 2,3,47,60-62,68-70 and 81 is/are rejected.
- 7) ☒ Claim(s) 48-52,63-67 and 71-75 is/are objected to.
- 8) ☐ Claim(s)      are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No.     .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. <u>    </u>  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>    </u>   | 6) <input type="checkbox"/> Other: <u>    </u>                              |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 9/15/05 have been fully considered but they are not persuasive. On page 7 in the Remarks section of the paper submitted on 9/15/05, Applicant asserts that Examiner's interpretation of the word "enclosure" is in error. Examiner disagrees with that assertion for two reasons in particular. First, Examiner is entitled to read the claims in the broadest reasonable interpretation. Claims are interpreted in light of the specification, but limitations from the specification are not read into the claims. Thus, "enclosure" can read on a room or listening area which is enclosed, which is the basis for the rejection. Applicant's meaning of enclosure is based on reading a "cabinet" or "housing", which is found in the specification, into the claim language. Second, at the time of invention, in the art of signal processing and modification of audio input signals, the spatial relationship of speakers (which may be enclosed themselves) in a listening environment such as a room determined the signal processing. Therefore the room could also be deemed an "enclosure". Regarding the argument on page 8 which states that Schwartz is directed to adjusting the output of audio speakers to accommodate for changes in the sound environment which is distinct from compensating for the physical relational characteristics of the speakers, it is the Examiner's contention that the changes in the sound environment are precipitated by changes in the physical relational characteristics of the speakers and the sound environment equates to an enclosure. As to the argument stated on page 9 which alleges that claims 2 and 3 require multiple audio inputs into the speakers of a single enclosure, to which Examiner does not disagree. However, Schwartz

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does teach that two audio inputs are sent from power amp 35 to the speakers. Although each speaker only receives one audio input, the speakers themselves (in a room "enclosure") are responsive to a plurality of audio input signals. Examiner maintains the rejection. Finally, regarding the arguments to claims 2, 47, 60-62, 68-70 and 81, the interpretation of "enclosure" as the room in which the speakers are located render the claims rejected under Schwartz.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 3, 47, 60-62, 68-70 and 81 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz. Schwartz discloses a sound reproduction system comprising speakers 5, 5' (array of two or more speakers), responsive to audio input signals from the signal source 30, wherein the speakers are in the same enclosure (a room, which is an enclosure). One or more parameters of the physical relational characteristics of the speakers with respect to each other are sent to the digital preamplifier 20 to modify the signal output of the signal source 30. The physical relational characteristics of the speakers are determined by test signals output by sonar devices mounted on the speakers. Claim 3, 60, 68, and 81 are met. As to claims 2, 47, 61, 62, 69, and 70, the test routine gives information about the impulse response of the room including the reflections of sound signals emitted by the speakers by objects, which would include distances between the speakers and the azimuthal alignment of the speakers.

***Allowable Subject Matter***

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Claims 48-52, 63-67 and 71-75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Pendleton whose telephone number is (571) 272-7527. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian T. Pendleton  
Primary Examiner  
Art Unit 2644



btp